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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/522,593

01/25/2005

Knud Erik Kristian Jensen Moller

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EXAMINER

CAMERON, ERMA C

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

07/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/522,593 | Applicant(s) JENSEN MOLLER, KNUD ERIK KRISTIAN | |
| | Examiner /Erma Cameron/ | Art Unit 1792 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Objections

1. The objection to Claims 4 and 9 is withdrawn because of the amendment filed 4/29/2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. The rejection of Claims 1-3, 5-8 and 10-30 is withdrawn because of the amendment filed 4/29/2008.

4. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 1, line 4: it appears that “phase” should appear after “liquid” .

b) Claim 10: “and” should be deleted before “oxidized polyethylene waxes”.

c) Claims 1 and 10: it is not clear if the whole BP range must be lower than the whole MP range, or if they are allowed to overlap.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The rejection of Claims 1-2, 5-6, 10-11, 13-16, 18-21, 23-24, 28 and 30 under 35 U.S.C. 102(b) as being clearly anticipated by Perlman et al (6033736) is withdrawn because of the amendment filed 4/29/2008.

7. The rejection of Claims 1-2, 5, 8, 10-11, 13-16, 18-21, 23-24, 28 and 30 under 35 U.S.C. 102(b) as being clearly anticipated by Kubo et al (4499225) is withdrawn because of the amendment filed 4/29/2008.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The rejection of Claims 3, 7, 12, 17, 22, 25-27 and 29 under 35 U.S.C. 103(a) as being unpatentable over Perlman et al (6033736) is withdrawn because of the amendment filed 4/29/2008.

10. The rejection of Claims 1, 3-25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al (4499225).

‘225 teaches applying particulate polyethylene or polypropylene wax, including HDPE (2:12-18), and including oxidized PE, in a water dispersion, to surfaces of automobiles or to a steel sheet, by spraying or other means, and baked to give a fused wax coating (1:56-4:62).

‘225 teaches a solid content of 5-70 wt % (3:56-62), which overlaps with the composition claimed in claim 3.

‘225 teaches a particle size of 0.05-150 um, which overlaps with the size claimed by applicant in claim 6.

‘225 does not teach the MP of the waxes, but does teach that the waxes melt at 200 degrees C, which implies that their MP's are somewhat lower than this (see Examples). The BP of the water (100 C) is lower than the MP of the waxes.

‘225 fails to teach the ml/m² of claims 12 and 17, but it would have been obvious to optimize the coating amount because the amount of coating is known to control the amount of protection a coating imparts to a surface.

The stacked layers of claims 26 and 27 are obvious design choices when coating the steel sheets of ‘225.

Response to Arguments

The applicant has argued that the particle sizes, general polymer nature and solids content are not as claimed. As explained above, the particle size and solids content overlap with that claimed by applicant. Regarding “general nature of the polymers”, the examiner does not know what this means, except that the applicant goes on to say that the present claims require that the polyethylene be high density polyethylene. Only claim 8 requires HDPE. In addition, ‘225 teaches HDPE (2:15). The applicant has further argued that the solvent does not have a BP < MP of the wax. It is the examiner’s position that the wax has a MP of less than the 200 degrees C that the coatings are baked at, and the water has a BP of 100 C, thus meeting the limitations of claims 1 and 10. The applicant has also argued that the liquid does not evaporate before the wax melts. It is the examiner’s position that the wax will not melt until the lower BP water has evaporated.

11. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cifuentes et al (5258063).

'063 teaches an emulsion of polyethylene wax, water, an alcohol such as fatty alcohol amine sulfate and other solvents. It appears that the waxes have a Higher MP than the BP of the solvents used.

12. Claims 1, 3-7, 10-25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleyle et al (3726820).

'820 teaches spray coating a tubular paper can (a type of rolled sheet) with an emulsion of an oxidized polyethylene wax (with a softening point of at least 110 C), water and other additives. After application, the coating particles are coalesced by heating to 125 C. The solids content and particle size overlap with that claimed by applicant (1:24-4:14; see Examples).

Specification

13. The disclosure is objected to because of the following informalities: 38:8 - there is a serial number missing. Appropriate correction is required. The applicant is requested to enter the missing serial numbers by amendment.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Erma Cameron/ whose telephone number is 571-272-1416. The examiner can normally be reached on 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/522,593
Art Unit: 1792

Page 8

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erma Cameron/
Primary Examiner
Art Unit 1792

July 15, 2008